

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

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IN RE BIOGEN '755 PATENT  
LITIGATION

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) Hon. Claire C. Cecchi  
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) Civil Action No. 10-2734 (CCC/MF)  
) (consolidated)  
)

**FINAL JUDGMENT**

Plaintiff Biogen MA Inc.'s ("Biogen's") case against Defendants Bayer HealthCare Pharmaceuticals Inc. and Novartis Pharmaceuticals Corp. (collectively, "Bayer Defendants") was severed from Biogen's case against EMD Serono Inc. and Pfizer Inc. (collectively, "Serono Defendants"). ECF No. 743. Following a jury trial between Biogen and the Serono Defendants, the jury returned a verdict that, *inter alia*, claim 1 of U.S. Patent No. 7,588,755 ("the '755 patent") is invalid as anticipated under 35 U.S.C. § 102. ECF Nos. 977, 978. Subsequently, on September 7, 2018, the district court granted judgment as a matter of law of no anticipation in favor of Biogen. ECF Nos. 1043, 1044, and 1059. Then, on September 28, 2020, the U.S. Court of Appeals for the Federal Circuit entered an opinion "revers[ing] the district court's grant of judgment as a matter of law of no anticipation and the conditional grant of a new trial on anticipation," and "remand[ing] with instructions to reinstate the jury verdict on anticipation." ECF No. 1104 at 19 (Opinion); see also ECF No. 1105 (Judgment). The Federal Circuit's mandate issued on December 28, 2020.

By separate order, this Court is entering judgment in favor of the Serono Defendants and against Biogen, in accordance with the jury verdict and the judgment of the Federal Circuit, adjudging, *inter alia*, claim 1 of the '755 patent invalid as anticipated under 35 U.S.C. § 102.

Claim 1 of the '755 patent is the only claim asserted in this action by Biogen against the Bayer Defendants. Biogen and the Bayer Defendants have stipulated that upon entry of judgment in favor of the Serono Defendants, Biogen does not oppose entry of judgment in favor of the Bayer Defendants as well. ECF No. 1121.

Accordingly, pursuant to Federal Rule of Civil Procedure 58, the Court hereby **ORDERS** and **ENTERS FINAL JUDGMENT** in favor of the Bayer Defendants.

Pursuant to Rule 54(d) of the Federal Rules of Civil Procedure and 28 U.S.C. § 1920, the Bayer Defendants are the prevailing parties and shall recover their costs from Biogen. The Bayer Defendants are directed to file their Bill of Costs and Disbursements in accordance with Local Rule 54.1.

**SO ORDERED and signed this 8<sup>th</sup> day of March, 2021.**

s/ Claire C. Cecchi  
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HONORABLE CLAIRE C. CECCHI  
UNITED STATES DISTRICT JUDGE